

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application)	PATENT APPLICATION
)	
Inventors: Schaake, Henk)	
)	Art Unit:
Application No.: 10/510,376)	
)	Examiner:
Filed: October 5, 2004)	
)	Customer No. 28554
Title: OPTICAL CONTROLS)	
)	

DECLARATION OF JOHN P. TOTHILL

I, John P. Tothill, hereby declare:

1. I am an attorney for Cliffgroup Limited, the assignee of the invention(s) entitled "Optical Controls" ("the Invention(s)") described in UK Patent Application No. 0208048.9 filed April 8, 2002, UK Patent Application No. 0308094.2 filed April 8, 2003, International Patent Application No. PCT/GB03/01524 filed April 8, 2003, and U.S. Patent Application Ser. No. 10/510,376 filed October 5, 2004.

2. Inventor Henk Schaake executed an Assignment, a true and accurate copy of which is attached as Exhibit 1, on May 1, 2002, transferring all right, title, and interest in the Invention(s) and all rights to make applications for patents in any country in the world to DigiCliff Limited, a British Company whose registered number is 4386126, and whose registered office or principal place of business is at 78 High Street, Lewes, East Sussex, BN7 1XF, UK.

3. DigiCliff Limited changed its name to Infinium Technologies Limited on March 2, 2003. A true and accurate copy of an Extract of the Companies Register for England and Wales certifying that DigiCliff Limited changed its name to Infinium Technologies Limited is attached as Exhibit 2.

4. Inventor Henk Schaake executed an Assignment, a true and accurate copy of

which is attached as Exhibit 3, on June 2, 2003, affirming the transfer of all right, title, and interest in the Invention(s) and the rights to make applications for patents in any country in the world to the entity now having the name Infinium Technologies Limited.

5. Inventor Henk Schaaake and Infinium Technologies Limited executed an Assignment, a true and accurate copy of which is attached as Exhibit 4, on June 9, 2003, transferring all right, title, and interest in the Invention(s) and the rights to make applications for patents in any country in the world to Cliff Plastic Products Limited, a British Company whose registered number is 00825324, and whose registered office or principal place of business is at Evershed Court, Fairlight Avenue, Telscombe Cliffs, East Sussex, BN10 7BU.

6. Cliff Plastic Products, LTD changed its name to Cliffgroup Limited on September 29, 2003. A true and accurate copy of an Extract of the Companies Register for England and Wales certifying that Cliff Plastic Products Limited changed its name to Cliffgroup Limited is attached as Exhibit 5.

7. UK Patent Application No. 0208048.9, from which the present U.S. Patent Application ultimately claims priority through International Patent Application No. PCT/GB03/01524, has been abandoned in favor of UK Patent Application No. 0308094.2, which claims priority to UK Patent Application No. 0208048.9 and has been granted as UK Patent No. 2390424. All formal requirements for registering Cliffgroup Limited's rights in UK Patent No. 2390424 have been fulfilled and the patent stands in the name of Cliffgroup Limited. Attached as Exhibit 6 is a true and accurate copy of the UK Patent Register entry for UK Patent 2390424.

8. On April 20, 2005, I wrote to Henk Shaake requesting his signature on a Declaration for U.S. Patent Application No. 10/510,376. Attached as Exhibit 7 is a true and accurate copy of the email I sent which attached a copy of the Declaration.

9. On May 9, 2005, Henk Schaaake responded to me by email stating that he had no intention of transferring his inventor rights and would not sign the documents. Attached as Exhibit 8 is a true and accurate copy of the email I received from Henk Schaaake.

10. On May 11, 2005, I again wrote to Henk Schaake further explaining the Declaration. I explained that he had already assigned his entire right, title, and interest in the Invention(s) and the rights to make applications for patents in any country in the world. I explained that those rights were currently held by Cliffgroup Limited. I further explained that in his Assignment of his rights, he agreed to execute all documents and give all assistance as the assignee may require in order to prosecute patent applications for the Invention(s). I again requested his signature on the Declaration. Attached as Exhibit 9 is a true and accurate copy of the email I sent to Henk Schaake.

11. On May 12, 2005, Henk Schaake responded to me by email refusing to sign the declaration. Mr. Schaake asserted that Cliffgroup Limited was obligated to pay a monthly consultancy fee to Digimix, Inc., a company with whom Henk Schaake was associated, as long as Infinium Technologies Limited would continue the development, production, sales, and marketing of optical control products and its technology. Mr. Schaake asserted his position that when Cliffgroup Limited decided to stop its monthly payment to Digimix, Inc., he was entitled to go elsewhere with his invention. Attached as Exhibit 10 is a true and accurate copy of the May 12, 2005 email I received from Henk Schaake.

12. On May 12, 2005, Henk Schaake sent me another email stating that he was willing to compromise in this matter if Cliffgroup Limited would pay him a compensation fee. Attached as Exhibit 11 is a true and accurate copy of that May 12, 2005 email I received from Henk Schaake.

13. On June 22, 2005, I wrote to Henk Schaake, via DHL courier to his last known home address as well as by email, enclosing a complete copy of the application papers (specification, drawings, claims, and declaration). I again requested his signature on the Declaration. I explained that the Declaration sets out that he is the first inventor of the invention described and claimed in the patent application and that he agrees with all the statements made in the application. I further explained that the Declaration does not change the ownership of the patent application and that the application had been assigned in its entirety to Cliffgroup Limited.


Attached as Exhibit 12 is a true and accurate copy of the June 22, 2005 letter I sent to Mr. Schaake via DHL Courier and email.

14. My June 22, 2005 letter sent to Mr. Schaake's last known home address could not be delivered. A note indicating to the residents of this address that the letter was being held by the courier service was left at the address but the letter was never collected and eventually was returned to me. However, the email I sent on June 22, 2005 reached Mr. Schaake as evidenced by his June 23, 2005 reply email, described below in paragraph 15.

15. On June 23, 2005, Henk Schaake responded to my June 22, 2005 email, again refusing to sign the declaration. Attached as Exhibit 13 is a true and accurate copy of the email I received from Mr. Schaake.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Executed in London, England on July 27, 2005.

A handwritten signature in black ink, appearing to read "J. Tothill", is written over a horizontal line.

John P. Tothill